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Atty. Dkt. No. 074129-0486

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Yoshihiro TAKEMOTO et al.
Title: A METHOD AND APPARATUS FOR
MANUFACTURING SYNTHETIC RESIN
HOLLOW MEMBER INCORPORATING AN
INTERMEDIATE ELEMENT THEREIN
AND THE SYNTHETIC RESIN HOLLOW
MEMBER
Appl. No.: 09/925,789
Filing Date: 8/10/2001
Examiner: Edmund H. Lee
Art Unit: 1732

REQUEST FOR RECONSIDERATION OF DECISION
REGARDING PATENT TERM ADJUSTMENT UNDER 35 U.S.C. §154 (b)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants are in receipt of the of the Decision Regarding Patent Term Adjustment (Exhibit I), which granted applications Request for Patent Term Adjustment to seven hundred and nineteen (719) days. The PALM Intranet printout (Exhibit II) attached to the Decision Regarding Patent Term Adjustment, however, indicates that the Total PTA days is 718 days. Applicants therefore submit this request for reconsideration in order to have the PALM Intranet data corrected by the PTO.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or

even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date November 15, 2005

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In re : DECISION REGARDING
Takemoto, et al. : PATENT TERM ADJUSTMENT
Application No. 09/925,789 :
Filed: August 10, 2001 :
Attorney Docket No. 074129- :
0486 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. §154(b)", filed May 23, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred thirty (530) days to seven hundred nineteen (719) days.

The application for patent term adjustment is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **seven hundred nineteen (719) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 25, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred thirty (530) days. On

May 23, 2005, applicants timely¹ submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is seven hundred nineteen (719) days. Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

Applicants assert entitlement to a patent term adjustment of seven hundred nineteen (719) days on the basis that the PTO improperly assessed applicants a delay of one hundred eight (108) days for responding to an Office action mailed on July 9, 2004. Applicants assert that they filed a response on August 6, 2004, not on January 25, 2005.

The Office initially determined a patent term adjustment of five hundred thirty (530) days based on an adjustment for PTO delay of six hundred thirty-eight (638) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by Applicants' delay of one hundred eight (108) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b). The adjustment of 108 days is at issue.

The adjustment of 108 days has been found to be incorrect. Applicants have submitted a copy of a postcard receipt for the instant application, itemizing a "Response to Restriction Requirement (1 pg.)", and bearing a USPTO date stamp of August 6, 2004. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.² Accordingly, it is concluded that Applicants timely filed a reply in response to the July 9, 2004 Office action on August 6, 2004, and therefore should not have been assessed a delay of one hundred eight (108) days.

Furthermore, in view of applicants' response filed August 6, 2004, the Office should have been assessed eighty-one (81) days of PTO delay pursuant to 37 C.F.R. §1.703(a)(2), because the Notice of Allowance was not mailed until February 25, 2005.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **seven hundred nineteen (719) days** (719 (638+81) days of PTO delay and 0 days of applicant delay).

¹ Applicants filed the PTA application with the issue fee.

² MPEP 503.

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Receipt of the \$200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin A. Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

Day : Monday
Date: 10/3/2005

PALM INTRANET

Time: 09:18:32

PTA Calculations for Application: 09/925789

Application Filing Date:	08/10/2001	PTO Delay (PTO):	638
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	108
Post-Issue Petitions:	0	Total PTA (days):	718
PTO Delay Adjustment:	188		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
29	10/03/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	188		
22	02/25/2005	MAIL NOTICE OF ALLOWANCE			
21	02/07/2005	ISSUE REVISION COMPLETED			
20	02/07/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
19	02/07/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	02/07/2005	NOTICE OF ALLOWABILITY			
17	01/31/2005	DATE FORWARDED TO EXAMINER			
16	01/25/2005	RESPONSE TO ELECTION / RESTRICTION FILED		108	12
15	12/28/2004	REFERENCE CAPTURE ON IDS			
14	12/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/06/2004	WORKFLOW INCOMING AMENDMENT IFW			
12	07/09/2004	MAIL RESTRICTION REQUIREMENT	638		-1
11	07/08/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
10	10/31/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	10/31/2003	CLAIMS PTO			
8	01/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	08/10/2001	PRELIMINARY AMENDMENT			
6	08/10/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	09/19/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	08/27/2001	APPLICATION DISPATCHED FROM OIPE			
3	08/24/2001	CORRESPONDENCE ADDRESS CHANGE			
2	08/16/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	08/10/2001	INITIAL EXAM TEAM NN			
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Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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